



General Assembly

Amendment

February Session, 2006

LCO No. 5587

HB0521205587SD0

Offered by:

SEN. MCDONALD, 27th Dist.

REP. SPALLONE, 36th Dist.

To: House Bill No. 5212

File No. 566

Cal. No. 409

"AN ACT CONCERNING FREEDOM OF THE PRESS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2006*) As used in sections 1 to
4 8, inclusive, of this act:

5 (1) "Information" has its ordinary meaning and includes, but is not
6 limited to, any oral, written or pictorial material, whether or not
7 recorded, including any notes, outtakes, photographs, video or sound
8 tapes, film or other data of whatever sort in any medium; and

9 (2) "News media" means:

10 (A) Any newspaper, magazine or other periodical, book publisher,
11 news agency, wire service, radio or television station or network, cable
12 or satellite or other transmission system or carrier, or channel or
13 programming service for such station, network, system or carrier, or

14 audio or audiovisual production company that disseminates
15 information to the public, whether by print, broadcast, photographic,
16 mechanical, electronic or any other means or medium;

17 (B) Any person who is or has been an employee, agent or
18 independent contractor of any entity specified in subparagraph (A) of
19 this subdivision and is or has been engaged in gathering, preparing or
20 disseminating information to the public for such entity, or any other
21 person supervising or assisting such person with gathering, preparing
22 or disseminating information; or

23 (C) Any parent, subsidiary, division or affiliate of any person or
24 entity specified in subparagraph (A) or (B) of this subdivision to the
25 extent the subpoena or other compulsory process seeks the identity of
26 a source or the information described in section 2 of this act.

27 Sec. 2. (NEW) (*Effective October 1, 2006*) No judicial, executive or
28 legislative body with the power to issue a subpoena or other
29 compulsory process may compel the news media to testify concerning,
30 or to produce or otherwise disclose, any information obtained or
31 received, whether or not in confidence, by the news media in its
32 capacity in gathering, receiving or processing information for potential
33 communication to the public, or the identity of the source of any such
34 information, or any information that would tend to identify the source
35 of any such information, unless such judicial, executive or legislative
36 body complies with the provisions of section 3 of this act.

37 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) Prior negotiations with
38 the news media shall be pursued in all matters in which the issuance of
39 a subpoena to, or the initiation of other compulsory process against,
40 the news media is contemplated for information described in section 2
41 of this act or the identity of the source of such information, or any
42 information that would tend to identify the source of any such
43 information.

44 (b) If the news media and the party seeking to compel disclosure of
45 information described in section 2 of this act or the identity of the

46 source of any such information, or any information that would tend to
47 identify the source of any such information, fail to reach a resolution, a
48 court may compel disclosure of such information or the identity of the
49 source of such information only if the court finds, after notice to and an
50 opportunity to be heard by the news media, that the party seeking
51 such information or the identity of the source of such information has
52 established by clear and convincing evidence:

53 (1) That (A) in a criminal investigation or prosecution, based on
54 information obtained from other sources than the news media, there
55 are reasonable grounds to believe that a crime has occurred, or (B) in a
56 civil action or proceeding, based on information obtained from other
57 sources than the news media, there are reasonable grounds to sustain a
58 cause of action; and

59 (2) That (A) the information or the identity of the source of such
60 information is critical or necessary to the investigation or prosecution
61 of a crime or to a defense thereto, or to the maintenance of a party's
62 claim, defense or proof of an issue material thereto, (B) the information
63 or the identity of the source of such information is not obtainable from
64 any alternative source, and (C) there is an overriding public interest in
65 the disclosure.

66 (c) A court of this state shall apply the procedures and standards
67 specified by this section to any subpoena or other compulsory process
68 whether it arises from or is associated with a proceeding under the
69 laws of this state or any other jurisdiction, except that with respect to a
70 proceeding arising under the laws of another jurisdiction, a court of
71 this state shall not afford lesser protection to the news media than that
72 afforded by such other jurisdiction. No subpoena or compulsory
73 process arising from or associated with a proceeding under the laws of
74 another jurisdiction shall be enforceable in this state unless a court in
75 this state has personal jurisdiction over the person or entity against
76 which enforcement is sought.

77 Sec. 4. (NEW) (*Effective October 1, 2006*) The provisions of section 2

78 of this act protecting from compelled disclosure information described
79 in said section and the identity of the source of any such information
80 shall also apply if a subpoena is issued to, or other compulsory process
81 is initiated against, a third party that seeks information concerning
82 business transactions between such third party and the news media for
83 the purpose of obtaining information described in said section 2 or
84 discovering the identity of a source of any such information. Whenever
85 a subpoena is issued to, or other compulsory process is initiated
86 against, a third party that seeks information concerning business
87 transactions between such third party and the news media, the
88 affected news media shall be given reasonable and timely notice of the
89 subpoena or compulsory process before it is executed or initiated, as
90 the case may be, and an opportunity to be heard.

91 Sec. 5. (NEW) (*Effective October 1, 2006*) Publication or dissemination
92 by the news media of information described in section 2 of this act, or a
93 portion thereof, shall not constitute a waiver of the protection from
94 compelled disclosure provided in section 2 of this act with respect to
95 any information that is not published or disseminated.

96 Sec. 6. (NEW) (*Effective October 1, 2006*) Any information obtained in
97 violation of the provisions of sections 1 to 8, inclusive, of this act, and
98 the identity of the source of such information, shall be inadmissible in
99 any action, proceeding or hearing before any judicial, executive or
100 legislative body.

101 Sec. 7. (NEW) (*Effective October 1, 2006*) Whenever any person or
102 entity seeks the disclosure from the news media of information that is
103 not protected against compelled disclosure pursuant to section 2 of this
104 act, such person or entity shall pay the actual cost that would be
105 incurred by the news media in making a copy of such information if a
106 subpoena or other compulsory process was not available, and may not
107 use a subpoena or other compulsory process as a means to avoid
108 paying such actual cost.

109 Sec. 8. (NEW) (*Effective October 1, 2006*) Nothing in sections 1 to 7,

110 inclusive, of this act shall be construed to deny or infringe the rights of
111 an accused in a criminal prosecution guaranteed under the sixth
112 amendment to the Constitution of the United States and article twenty-
113 ninth of the amendments to the Constitution of the state of
114 Connecticut."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	New section
Sec. 5	<i>October 1, 2006</i>	New section
Sec. 6	<i>October 1, 2006</i>	New section
Sec. 7	<i>October 1, 2006</i>	New section
Sec. 8	<i>October 1, 2006</i>	New section